

**Proposed Municipal Management/Finance Reform
Technical Assistance: Preliminary Legal
and Institutional Assessment**

Republic of Armenia

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Introduction

The structure of local government law currently in effect in Armenia was introduced into law in 1979.¹ These laws² were formally adopted by the Armenian parliament, but in keeping with the political reality of the time, it was substantially handed down from Moscow, and was approved with little, if any, revision or amendment.

This law establishes a number of levels of government below the national level.³ Armenia is divided into thirty-seven regions⁴ ("Shrjan"), each with a regional council of deputies ("badgamavornere khorood") elected by the people, an executive committee ("gordsadeer committee") selected by the council of deputies, a chairperson of the council and executive committee (a "regional level mayor"), and the authority to issue decisions. These regional governments might be analogous to states or counties in American law, although the differences are substantial.

The next level of government consists of cities ("gaghak"), urbanized settlements ("avan"), and villages ("giugh"). This level of government will be referred to as local government. So-called "cities of republican importance" such as Yerevan, Gyumri, Vanadzor and Spitak are the largest settlements, and each has its own council of deputies elected by the people, a mayor elected by the council of deputies, and an executive committee (or city council), with the authority to issue decisions.⁵ These 22 cities report to and are directly accountable to the national level of government.

¹In the United States, duly enacted state laws and city ordinances are referred to as "laws" or "the law." Armenian law dictates, however, that only legislation that is passed by the national parliament is called a law ("orenk"). Thus, while the national, regional and local bodies issue decisions ("voroshoom") which apply in their respective jurisdictions, these decisions are not referred to as laws in Armenia, although apparently they have the effect of law. If a decision contradicts a national law (or the law of a superior jurisdiction), it is void. The president may issue decrees ("hramanageer") and orders, which also have the effect of law. Thus, legislation of the national, regional and local bodies of Armenian government consists of parliamentary laws, presidential decrees, and decisions of the parliament, regions, and local bodies.

²Three laws were introduced: 1) the law on Regional Councils; 2) the law on City (District) Councils; and 3) the law on Village and Urban Settlements. These laws have been amended by subsequent legislation.

³Armenia's state authority (national government, in the United States) consists of 1) the Executive branch, headed by the president, who is assisted by his apparatus (his advisors and departments), his cabinet of ministers (called "the government" in Armenia) which includes the state ministers and the line ministers, and heads of the state committees and departments, and the presidium (some of the state ministers and line ministers), and the cabinet's apparatus (departments); 2) the Legislative branch, called Parliament (or "Supreme Council", in Armenian) and 3) the Judiciary.

⁴See attached list of 37 Republic Regions.

⁵See attached list of 22 "cities of republican importance."

The rest of the local governments are considered "cities of regional importance" and report directly to the regional governments. Urbanized or city-type settlements such as Medzamor and Akhtala are smaller than a city, but larger than a village. Urbanized settlements have a mayor, council of deputies and executive committee. Villages such as Sevkar, Goghb, Zovashen and Noradoot are the smallest subdivision. Villages have village councils, but no executive committees.

Currently, all taxes are levied and collected on the national level. While certain laws, such as the law on taxes and duties, have been passed in preparation for tax collection on the regional or local level, these laws have not yet been fully implemented, so the regional and local governments still look to the republic for almost all of their revenues.⁶

Armenia's constitutional commission is currently in the process of drafting a new constitution. The new constitution and the laws which will subsequently be enacted to implement the constitution are expected to drastically change the structure of local government. Numerous drafts of a new constitution have been proposed during this long process, and currently negotiations are underway to combine the drafts suggested by the president and the political opposition into a single draft. The presidential and opposition drafts will be discussed in the body of this report.

Sources of Information

Interviews were held with 1) Mr. Garen Maroutian, head of the Department of Regional Regulation, an executive branch office of the "Government Apparatus,"⁷ 2) Mr. Garen Melkonian, a lawyer with the Ministry of Finance, a State Ministry, 3) Messrs. Artashes Arakelian and Kadjik Nurijanian, two deputies (elected members) of the Yerevan Council of Deputies who work at Yerevan's City Management Systems Scientific Research Center,⁸ a city-run institute described by the interpreter as "Armenia's ICMA," 4) Mrs. Gulnara Shahinian, a Yerevan City Councillor and head of Yerevan's Foreign Relations Department, and 5) Mr. Arshak Sadoyan, a member of Parliament, head of Parliament's Permanent Commission on Local Self Government, and a leading member of one of Armenia's opposition political

⁶Certain rental fees (e.g. for non-residential spaces) are collected by the cities, but they are effectively turned over to the republic to decide how to spend them. At the time of preparation of this report, the city of Yerevan is in the process of introducing a hotel tax of \$1, to be used for repairing the streets and for other projects which will improve the city for tourists. This local tax is apparently the first local tax to be introduced and collected locally in Armenia.

⁷This department includes 16 members and is responsible for 1) territorial policy and 2) coordination of the activities of executive bodies of local authorities. Territorial responsibilities include: problems of territories on Armenia's borders, administration of territorial divisions, refugees, local budgets, mechanisms of local self government and development of draft laws, and preparing long term programs on all of these issues. Local responsibilities include: assistance to local councils and supervision of local councils on implementation of laws, decrees and decisions of the state. This department serves as the eyes and ears of the national government and prepares reports on these issues. The prime minister and the state ministers make the decisions. Two experts also report to Mr. Maroutian on these issues.

⁸Mr. Arakelian is the director of this Research Center.

parties. Unfortunately, no meeting was held with an individual from one of the regional governments because Yerevan is not a part of one of the 37 regions and no individuals were readily available. The interpreter for these meetings, who also spent a great deal of time translating and explaining the laws, decisions and drafts, was Mr. Garen Chilingarian, chief of the Department of Codification and Court Practice at the Supreme Court of Armenia, who works regularly for ICMA translating laws into English and Russian.

The following laws were reviewed orally with the legal consultant/interpreter: the 1978 constitution, Chapters 14, 15, Articles 125-137; three 1979 laws, as amended: 1) the law on Regional Councils, 2) the law on City (District) Councils, and 3) the law on Village and Urban Settlements; the 1990 election law; the most current draft of Armenia's revised local government law; and sections of the draft presidential and opposition constitutions which relate to local government. Other materials which may be useful for understanding local government law in Armenia have been promised by the individuals interviewed, including a French paper on municipal government in Armenia, an organizational chart on local government, a copy of Yerevan's city budget, and a set of local government bylaws. All of these materials will be translated, except that of the three 1979 laws, only the law on City Councils will be translated, because the other two laws that apply to Regional Councils and Villages are substantially the same.

Local Government in Armenia

Background Information

The 1979 law which deals extensively with the structure of local government is the law which every government official referenced when discussing the laws which apply to their branch of government. However, in discussing the background of local government in Armenia, Mr. Maroutian stated that the laws were written to allow the Communist Party to operate in whatever way it wanted to operate. The law stated, "All power belongs to the councils," but in reality, the Communist Party had the power, and the secretary of the local committee decided everything. Thus, the 1979 law is long, but does not successfully specify the function of the structures it creates and does not explicitly indicate who is in charge of what. As a result, the government officials do not take the laws seriously when it comes to understanding the proper operation of government, because they were not written with the rule of law in mind. Other laws which are most relevant to the subject of regional and local government are the 1990 election law and the old 1978 constitution, but the 1979 law was referenced most frequently in the interviews with government officials.

Regional Governments - Shrjan⁹

The government officials indicated that there are currently too many divisions of territory reporting to the central government, starting with the regional governments. Armenia is a relatively small country,

⁹Information on the 37 regional governments was collected primarily from the language of the 1979 law, with some comments from discussions with the individuals interviewed.

and 37 administrative regions were not necessary, but regions were created in many cases simply so that more positions of power would be available to give out to loyal party members and relatives.¹⁰ The districts are not created uniformly based on population, and wide population disparities exist in some cases. These districts have also given rise to disputes between regional and local governments over which jurisdiction controls a particular enterprise. These property and ownership divisions will become even more important when regional and local taxation authority is introduced. Currently, no regional taxes are in effect, although some rental fees are being imposed locally.

The regional council of deputies is elected by the people in each region, with citizens voting for the deputy of their district within the region. The deputies are the only officials elected directly by the citizens on the regional level. A district commission selected by the council of deputies verifies the validity of the elections after they are completed.¹¹ The council of deputies is only active when it is in session. The law provides that the council must meet at least once every three months, or 4 times per year. The quorum for a session of the council is 2/3 of the total number of deputies.¹²

The real power at the regional level belongs to the executive committee,¹³ which carries out the mandates of the council when the council is not in session. The executive committee is a permanently acting body elected by the council of deputies, and includes the chairperson of the council and chairpersons of permanent commissions. The chairperson of the council is the head of the executive committee. The members of the executive committee are elected by secret ballot by a simple majority of the deputies participating in the voting (but no less than 1/3 of the total number), and are removed in the same manner. The council of deputies decides how large the executive committee will be and how many commissions there will be, so the size of each region's executive committee will vary. Also, depending on the size of the executive committee selected by the council, not all commission heads will necessarily serve on the executive committee.

The executive committee is responsible for notifying the population and the deputies of the place and time of the first meeting and the agenda for the session no later than 7 days before the meeting, and convenes the initial meeting of the council of deputies. The executive committee, permanent commissions and deputies may propose agenda items, but the executive committee decides whether to include these items in the agenda, so members of the executive committee have the power to influence what issues are heard. District bodies of public organizations and village councils may also suggest agenda items.

In addition to convening the sessions of the council, the executive committee provides preparations for the council, and organizes a preliminary discussion of the most important draft decisions of the council.

¹⁰Likewise, Armenia had 22 "cities of republican importance" because if a city was deemed to be of republican importance, it could get more funding from Moscow.

¹¹There have been some instances of irregularities, i.e. where the ballots have been stuffed by the electoral commission that runs the election.

¹²Apparently, the councils frequently fail to muster a quorum and are therefore unable to make decisions.

¹³The executive committee is similar to the concept of a board of directors.

The executive committee by law is also obligated to and responsible for arranging for discussions with the population and with labor collectives (at schools, meeting halls, etc.), but in practice, this is not ever done. The public is not entitled to go to the meetings of the council, but practically speaking, individual citizens are not interested in the workings of local government. They do not know what issues are going to be discussed and they do not have time to go to listen. Moreover, if a citizen attempted to attend one of these meetings, the person would be considered to be causing trouble, so it is not in a citizen's best interest to attend. Effectively, once the people elect their leaders, they have no further interaction with local government and there is no further accountability. The government officials suggest that individuals who are responsible for large plants usually sit on local councils, and thus their input and the input of their workers is gained in this way.

The full council of deputies has exclusive jurisdiction over certain issues, including: recognition of the authority of deputies, reports of deputies regarding implementation of the obligations and decisions of the council and its bodies, election and approval of the council's executive committee and its departments and sections, as well as changes of members, formation of the council's permanent commissions, creation of departments and sections of the executive committee, consideration of reports, approval of the district budget and approval of the report on its implementation, approval of executive committee decisions relating to additional revenues gained in addition to the budget, and use of additional revenues left over if some of the budget is underspent. However, some of these issues are decided by the executive committee, and then approved by the council. Decisions require a simple majority of votes of the attending deputies, but no less than 1/3 of the total number of deputies. If a decision does not comply with the constitution and laws of Armenia, the national parliament has the right to nullify it.¹⁴

A 2/3 majority of the council of deputies or of the presidium of the national parliament can declare distrust of the chairperson of the council, or the executive committee of the council may declare distrust upon its own initiative or on the initiative of the government (the president's cabinet). The executive committee of the regional council directly reports both to the regional council and to the presidium of the national parliament. The national parliament sends a representative, who must be a member of parliament, to preside at the council's first session unless the chairperson of the council has already been chosen. After the secret ballot election of the chairperson by a simple majority of all deputies of the council, s/he presides over the council and the executive committee.

Local Governments

The processes of local government operate in much the same way as the regional government, with a council of deputies elected by the people, who in turn elect an executive committee to make and implement most of the important decisions. Current legislation requires that 200 deputies ("badgamavor") be elected from 200 districts in Yerevan, but this number will vary from city to city. These deputies are not required to live in the district or even in the city from which they are elected, so the only election requirement is citizenship in the Republic of Armenia. The deputies are not paid any salary because being a deputy is not their main job. Each of the deputies holds a job apart from the council activities and receives a salary for that job only.

¹⁴This power to determine constitutionality will be transferred to the constitutional court when a constitution is adopted.

Apparently, there is a loose formula based on population which determines the number of deputies which is located in the law on elections. Currently, Yerevan has 179 deputies and 21 vacancies. These vacancies can occur if a deputy is appointed to head a city committee or department, in which case the individual must resign as a deputy. As soon as 2/3 of the deputies are elected, the government may begin its business. The council of deputies elects its chairperson, who also serves as the chairperson of the executive committee.¹⁵ This chairperson is the mayor of the city or urban settlement. There is also no residency requirement for the mayor.

The council of deputies approves the structure of the executive committee and its commissions, and elects individuals to fill executive committee positions. All the senior officials, such as chiefs of departments and sections, are nominated by the executive committee and approved for their positions by the session of the council. Other officials are appointed by a decision of the executive committee. No official is appointed solely by the mayor. The council of deputies approves the number of members that are to serve on the executive committee. In Yerevan, 15 members serve on the executive committee, which is called the City Council.¹⁶ These members of the Executive Committee are also chiefs of departments or sections of the committee. As chiefs, they are paid a salary of six times the minimum monthly salary (MMS) established in the Republic. Currently, the MMS equals 230 drams, so they are paid 1380 drams per month. Apparently, Yerevan's executive committee is large compared to the executive committees of other cities. Any citizen of the Republic of Armenia can serve as a member of a local executive committee.

By law, the council of deputies should be the most important local government body, but in actuality, the executive council does most of the work and is the most active body. The executive committee as a whole is supposed to make the decisions, with the mayor serving as the chairman of this body, but a mayor can have a great deal of influence over the executive committee, and in Yerevan, the mayor wields a great deal of influence. The mayor of Yerevan is an ex officio member of the cabinet of ministers of the national government.

The executive committee and the local council of deputies are entitled to issue decisions on matters within their respective jurisdictions. The 1978 constitution and the laws provide the basis for decisions to be promulgated. The process for issuing decisions is described in the internal regulations of each jurisdiction. The purpose of these decisions is to regulate the relationships within the jurisdiction of the body issuing the decision. These decisions are similar to city and regional ordinances.

Whichever department is responsible for a particular issue may prepare a draft decision describing the disposition of the matter. This draft may then be discussed among the relevant governmental bodies,

¹⁵In the Russian model, the chairperson of the council of deputies and the chairperson of the executive committee were two different people, but Armenia chose to have these positions filled by the same person.

¹⁶Yerevan's city government, as the largest in the Republic, contains most departments that would exist in any other city. Some cities, however, do have departments that do not exist in Yerevan. For example, the executive committee of Vartenis has a position of deputy chairperson of refugees and disaster zone, which Yerevan does not have. Initially, 19 members served on the Yerevan Council, but the number was then trimmed to 15.

the decisionmakers may ask for comments or recommendations, and the draft may be amended. The legal department must review and approve the draft,¹⁷ after which a final version will be submitted to the executive committee or the council of delegates and the appropriate person will represent the provision to the body for discussion. If the body approves the decision, it is adopted.

Yerevan's size dictates that its city government must deal with delivery of utility services, which is usually reserved for the national government in other cities. The major issues handled by the Yerevan city government include: water supply, heating, repair and servicing of buildings, garbage collection, public transportation, roads in the city, culture, education (kindergarten through secondary school, typically 10 years), and health care (almost all of the hospitals in Yerevan are city hospitals). Many other issues are handled jointly by the Yerevan government and the national government.

The chiefs of the departments within the executive committee are accountable only to the city government, and according to the law, the national government cannot fire department heads, although it can submit its distrust of the heads (chairpersons) of a city's executive committee, and through an indirect process with the presidium of the parliament, can fire the mayor.¹⁸ The law states that the department heads work for the city, but there is no legal structure supporting the working relationships that are currently in place. In the last five years, this relationship between the city and its departments has developed without legal guidance.

The national government in actuality does have some impact on local departments. Some city departments need agreement from the national government to carry out certain decisions. For example, the chief of the city's finance department must be agreed upon or consented to by the Ministry of Finance. While the city could approve the chief despite the Ministry's objection, the problems that would stem from this defiance dictate that a city would not dare to force the issue. In cities smaller than Yerevan, the national government can exert more political influence, and these cities are therefore more centralized.

With regard to land within the city, the law dictates that land is allocated by the city government. Usually, the national government resolves its need for city land with the city government (e.g. the need for land for a foreign embassy). However, if the government makes a decision on property not contrary to law, that decision is binding.

Districts within Yerevan and Gyumri

¹⁷Yerevan's executive committee has a legal affairs department, which handles all legal questions and reviews all draft decisions to insure that these decisions agree with the national laws. The city has a city attorney who attends the meetings of the executive committee, and the legal department has a veto over city decisions.

¹⁸If a mayor is fired by the national government, the presidium of the national parliament appoints a new election, and can appoint a plenipotentiary if a new mayor is not elected within one week.

Yerevan (8 districts) and Gyumri (2 districts) are the only cities within Armenia that are divided into districts. These districts were created by the 1978 Constitution in very general terms. These districts function much the same as city governments, with a local council of deputies and an executive committee. The chairperson of the district council of deputies is also the chairperson of the district executive committee, and this chairperson is similar to a city mayor. There are usually 75 to 125 deputies on the district council of deputies.¹⁹ Each district has its own building headquarters located in the respective districts, and each district has its own budget, which is included in the city budget.

Some of the responsibilities of the districts are: improvement of roads, repair of buildings, some education issues, and any issue that does not concern the city government. Trash pickup used to be a function of districts in Yerevan, but is now a city function. Yerevan's city officials suggest that these districts are somewhat superfluous and duplicative, and the city has created a project to study the activities of these districts.

The Tax Process

Article 12 of the Law on Taxes and Duties, enacted on April 19, 1992, prescribes the taxes which will be imposed within the Republic of Armenia. This law states that local taxes can be applied by proposals of the local councils only in the case of a positive result from a referendum conducted within the local administrative unit. The process for this referendum, however, is not laid out in the law on taxes and duties. Currently, no regional or local taxes are in effect. Part of these taxes are collected directly, and part are collected indirectly.²⁰ Most of the taxes are currently collected by the state's local subdivision.

The following taxes and duties are provided for by this law: a profit tax collected from legal entities (taxpayers); an income tax collected from physical persons (individuals);²¹ an excise tax collected from the sale of specific commodities or goods (alcohol, cigarettes, beverages, etc.) collected from registered entities who are authorized to sell these goods; a sales tax, which is included in the price of the good if the selling entity is properly registered; a social tax (1% of salaries) collected from salaries and "other incomes which have the same importance as salaries," which is collected to care for sick people, retired people, and the like; a land tax based on a complicated formula incorporating the cadastre value of land and the surface area (enacted very recently); a specialty tax or professional tax for persons engaged in a certain type of specialty (the law does not yet indicate which specialties will be taxed); a property tax (not yet enacted) collected for certain types of property yet to be determined; a natural preservation tax to be collected for using natural resources and for contamination of the environment as a result of one's activities;

¹⁹In Yerevan, the Soviet district has 125 deputies, the Shahumian district has 100 deputies, and the Mashdots district has 75 deputies.

²⁰The law states: "Taxes and duties defined by this Law are paid to the State budget of the Republic of Armenia, to local budgets, and in some cases defined by the Law, to out of budget funds." Article 3. This law does not specify which taxes are paid to which entity.

²¹An income tax law has not yet been enacted, but a decision of parliament describes the current method of collection. The minimum salary is not taxed, then approximately 12% of the amount exceeding the minimum salary is taxed, with the percentage increasing as the salary increases.

a road tax collected from the sale of petrol and diesel fuel, collected from owners of modes of transportation (included in the price if the seller is registered to sell); a state fee or duty for using the state's legal or other services; a customs duty for export and import of goods and commodities; an inheritance and donation tax collected based on the value of the property inherited or received as a donation; local taxes (general) which shall be established in a manner provided by Article 6, Paragraph 2 of this law, and other taxes and duties. This law does not indicate which of these taxes are available to local governments.

The Budget Process

The budget process in Armenia is directed from the central government. The state collects the income tax, and distributes the monies according to the following process. A special section of the national budget is prepared for local self government, which must be approved by the national parliament. Every regional and local government submits its requested budget for the coming year to the national Ministry of Finance. This budget includes line items from the local governments, with justifications for the amounts requested. In Yerevan, and presumably in most other large cities, the city council may hire experts to put together the local budget. Cities of republican importance submit their budgets directly to the Ministry of Finance, while cities of regional importance submit their budgets to their respective regional governments, which in turn submit their budgets to the Ministry of Finance with line items for the regional cities. Yerevan's and Gyumri's districts submit their budgets to their city to be included in the city budget.

The Ministry of Finance receives all of these budgets, summarizes them and compares them to previous years' budgets and allocations, plans and projects budgets for the coming year, and submits its draft recommendations to the government. The government discusses this budget, which the Ministry can revise, and consults the Ministry of Economy's report to the Ministry of Finance on the state of the economy. The president then submits a draft budget to the national parliament. The parliament, after its deliberations, approves an amount which will be given to the regional or local government, and the regional or local government is free to use this amount according to its own priorities, without further guidance from the national government. Parliament can add line items to the regional and local budgets for special projects for which the state will pay. The final budget becomes a law when parliament adopts the budget as a law and the president signs the budget, thus making it effective.²²

Yerevan does collect some local fees, mainly rental fees from non-residential spaces. This money is collected by the tax inspectorate and put into a city account. Yerevan prepares a report of all monies collected by the city (on an irregular basis), and these amounts are included in the budget that is sent to the Ministry of Finance. If the city collects more money than it budgeted to collect, the council of deputies must approve the expenditure of this additional money.

The official from the Ministry of Finance indicated that while the 1979 law does apply, this law is not very helpful and he does not need to refer to this or any other law to do his job, because these laws do

²²While no direct regional or local input is applied at the national level, other than by representation of the deputies in parliament, some lobbying (on budgetary and other matters) does exist on the local, regional and national level, but such lobbying is not legal.

not spell out the current budget process. He indicated that this year he expected the government to introduce a new law. He expects that the regional and local governments will soon have their own means to raise funds through regional and local taxes for issues that can be covered by local resources. The regional and local portions of the regional and local budgets will no longer be submitted to the national government.

For the rest of the necessary funds, the regional and local governments will still apply to the Ministry of Finance, but these processes and the definition of local, regional and national issues will be spelled out in the Republic's laws and will also develop based on common practice. The regional and local governments may be required to submit some of the funds they collect to the national budget, which will then be applied to global problems.

Election Laws

Armenia's election law was enacted on February 13, 1990, entitled "Elections of peoples deputies of local councils of Armenian SSR." The law provides for universal equal and direct suffrage by secret ballot.²³ Armenian citizens who have attained the age of 18 years can elect and be elected, and there can be no discrimination based on origin, social and property standing, race, nation, sex, education, language, religion, duration of residence at a certain place, or activities. Only persons recognized by a court as incompetent and persons bearing their sentences are ineligible to vote. All election expenses are covered by the appropriate electoral commission, which is funded by the government and by a uniform fund to which public bodies can contribute. Public organizations, enterprises, and institutions provide appropriate modes of transportation and buildings in which to hold the election.

Electoral commissions are formed from representatives of labor collectives, public organizations, educational institutions, the population, and by military servicemen to organize, notify the population, and implement elections. Candidates can be nominated by labor collectives, public organizations, educational institutions, the population within their area of residence, or military servicemen within their military bases.

If an individual nominates a candidate, signatures must be collected. A list of electors should be prepared before the election which includes every person in the jurisdiction who has the right to elect and be elected. Candidates must be registered, and can be disqualified (their registration revoked) if the proper steps are not taken. A candidate is entitled to notify his or her employer of candidacy, and if requested, must be given time off from work to run. Candidates are entitled to use free local transportation during the campaign, and are immune from being called to criminal liability or being arrested without consent of the appropriate local council.

Elections for people's deputies shall be appointed by parliament within 3 months before the previous term expires. A 30% referendum of the population, a 2/3 decision of the local council, or administrative territorial changes can require that an extraordinary election be held. The parameters for the number of districts within the jurisdiction that will elect deputies is also determined by this law: 200 districts for Yerevan, hence 200 deputies; regional council, up to 100 districts; cities of republican importance, up to 150 districts; cities of regional importance, up to 50 districts; city districts in Yerevan and Gyumri, up to 175 districts; village and urbanized settlement districts, up to 50 districts. The exact number of electoral districts is determined for republican cities and regional councils by the national

²³Interestingly, the law provides that more than one person can run for office, a reminder that during Communist times, this was not the case.

parliament or its presidium; for city districts in Yerevan and Gyumri, regional cities, villages and urbanized settlements, the number of districts is determined by the appropriate superior council, relying on the suggestion of the local councils.

The law provides that a people's deputy cannot hold certain other positions in the government, and if an individual is elected, s/he must resign from the following positions: 1) staff of the executive committee except for the chairperson, 2) heads of departments and sections of the executive committee, 3) judges, 4) heads of local subdivisions of the national security service as well as their deputies.

The results of the election are as follows: it is forbidden to open the ballot boxes until the election is over. Election hours are from 7:00 am to 10:00 pm. The chairperson announces that the election is over, and the boxes are then opened and counted by the electoral commission. Candidates are elected by a simple majority of votes, but s/he must receive a simple majority of no less than 25% of the total number of electors included in the list of electors, or at least 12.5% of the total number of potential votes. An election can be nullified because of violations of the electoral law.

The Court System

Judges at all levels are currently elected by parliament. There are only judges at the regional (shrjan) level of government, and not at the local (city or village) level, with the exception of district-level judges in Yerevan and Gyumri. The Ministry of Justice collects all applications for the position of justice (recommendations, biographies, etc.) and submits these papers to the parliamentary commission on legal affairs. An exam is taken (the exam is offered only when necessary because elections of judges are being held). Those who pass the exam are submitted for the parliament's consideration. Parliament has extended the terms of all judges whose terms have expired. Only parliament can remove judges. The draft constitution calls for county courts and community courts (but not in all communities, because some are too small).

Draft Laws

Currently, there is a draft law on local self government being reviewed by the national parliament. This draft attempts to lay out the operation of local and regional laws, decisions and decrees in one document, while not effectively changing the operations of the current regional and local structures. This draft is the most important piece of legislation currently being reviewed with regard to local government, next to the constitutional drafts, but it has not been placed on the agenda and discussed in anticipation of the passage of a new constitution, which would establish a complete reworking of local government law. This document is very long, and speaks in many vague generalities without successfully describing the operations and relationships of regional and local government. According to the legal consultant, this draft law will not be very effective if it is adopted as currently drafted.

The Parliamentary Committee on Local Self Government is having difficulty in determining what direction to take with regard to legal reform. The main problem is that this committee, like most other branches of Armenian government, is so busy worrying about problems like fuel, light, water, and preparing for the coming winter that it is not creating laws with long term policy reform in mind, but instead is dealing with short term problem solving.

Draft Constitutions

The president's constitutional draft, which is currently expected to prevail, provides for an overhaul of the regional and local boundaries. Articles 108-114. Under this draft, the regions would be done away with, and Armenia would be divided into counties (marz) and the city of Yerevan (which would have the status of a county).²⁴ The local level of government would be the community (hamaynk), consisting of cities and villages. The counties would be subject to the national government, with county governors appointed and removable by the Republic's president. The communities would elect community councils composed of five to fifteen members to serve for a term of three years. This council would approve and implement the budget and impose local taxes and duties. The national government would retain the power to remove the community leader (the mayor) upon the recommendation of the county governor, whereupon a new election would be held.²⁵ The details of regional and local government would be spelled out by legislation once the constitution was approved.

The opposition parties have also proposed a draft constitution. The opposition draft of the constitution was prepared by 6 opposition parties in a very unique fashion for a former Soviet republic. Each party initially prepared its own draft, then the parties came together and agreed on one draft. This opposition draft goes into much greater detail regarding the structure and jurisdiction of local government than does the presidential draft. Presumably, the presidential draft would rely more on implementing laws to fill in the details.

Chapter 7, Articles 87-91 of this draft provide for city courts, district courts and supreme court, plus the constitutional court. Chapter 9, Articles 93-97, entitled "Local Self Government," provide for free elections, local referendums, and elected-representative & executive bodies. Elected-Representative bodies would consist of provinces (districts) ("gavar" or "shrjan" in Armenian), cities, urbanized settlements, and village meetings. These representatives would be elected through universal equal and direct suffrage by secret ballot (excluding only those under 18 years of age and those who are recognized as incompetent by a court decision, and persons who are sentenced by a court to imprisonment and who are bearing their sentences).

Executive bodies would be headed by governors of the provinces, mayors at the city level, mayors of urban settlements, and mayors of villages, elected in the same manner as above. Meetings of provinces, cities, etc. would be entitled to supervise (participate in) the activities of governors and mayors without "directly interfering in" those activities. Those meetings would be entitled to remove governors and mayors

²⁴Another draft constitution has proposed nine counties, with Yerevan functioning as the tenth county.

²⁵Mr. Sadoyan indicated that under the current system where mayors can be removed and plenipotentiaries can be appointed if vacancies persist, of the 12 plenipotentiaries that have been appointed at the local level, 8 have been subsequently removed. Ten other local level officials have been removed. Thus, he suggests that the central government has frequently replaced local officials, and the government-appointed replacements have not typically been effective.

by 2/3 majority of votes of the total number of their members. In the event of removal, new elections would be appointed to fill these spots. Parliament would be entitled to remove governors upon the proposal of the central government, headed by the prime minister.

Regarding property rights, local self government bodies would have the right to own land, moveable and immoveable property, and financial resources. Property owned by local self government would be alienable for national needs only with compensation. Disputes related to alienation of this property would be settled by a court of law.

Province budgets would be formed on the basis of local taxes and other collected fees, as well as by allocations from the state (national) budget. These allocations would be made by the parliament, and the money would be taken from the "parliamentary fund" to support local self government. Regulation for the establishment of this fund and for allocation of money from this fund would be established by law. The budgets of cities, urbanized settlements and villages would be created on the basis of local taxes and other collected local fees, as well as allocations from the province budget. All of these allocations would be made by the province meetings through the funds created for the purpose of supporting the cities, urban settlements, and villages, which funds would be approved annually. Local budgets would be approved by provinces, cities, urban settlements, and village meetings, which would also control the implementation of those budgets. The local self government bodies would act independently within the authorities assigned to them by the constitution and laws of Armenia. All local issues would be resolved by local self government bodies, taking into consideration also the national interests. All national issues which concern in any respect the interests of provinces, cities, urban settlements and villages would be resolved upon the direct participation of local self government bodies.

In addition, local self government bodies would be entitled to: a) establish and administer all institutions and agencies under their jurisdiction; b) approve and dispose of the local budget; c) establish local taxes and other fees; d) conduct activities directed at the preservation and use of lands, water stock, and forests; e) design, construct, utilize, and repair the roads; f) design, construct, utilize, and repair hydrotechnical structures, i.e. channels, dams (water barriers), irrigation systems (networks); g) plan, construct, and improve the inhabited areas; h) manage the housing stock; i) manage the services for health care, sanitary hygienics, and anti-epidemic services; j) manage public utilities; k) manage transportation; l) manage public order and fire-fighting (fire safety); m) manage provision of aid to mothers, children, elderly people, and disabled persons; n) manage public education; o) organize trade, markets, and stock markets (?); p) manage museums, libraries and other cultural institutions; q) preserve monuments having historic and cultural significance; r) manage hotels and tourism; s) oversee organization of public leisure (parks, sports, etc.); and t) resolve other local issues. Article 97 indicates that the administrative territorial structure (division) of the Republic of Armenia, the status of local self government bodies, and the terms of their authorities shall be established by law.

As mentioned above, the president's draft currently appears to have the upper hand.²⁶ The president's draft reflects a desire to have more centralized control over local governments, where the leaders

²⁶According to Mr. Sadoyan, the body that establishes the parliament's agenda is controlled by the president's party. This body has blocked the opposition draft of the constitution from being heard in parliament, but the president's draft apparently does not have the 2/3 support necessary to pass parliament

of regional and local government would report directly to their superiors in the central government and could be removed directly by the central government. The draft is also concerned with minimizing the number of administrative divisions of government, and would do away with the distinction between cities of republican importance and cities of regional importance.

According to Mr. Maroutian, the opposition draft does not solve these administrative problems because it would retain the existing structure. He suggested that the president's draft is problematic because it would create a presidential representative but no legislative representative at the local level, although the local budgets would be approved by a representative body. The opposition, while believing that the administrative divisions eventually need to be changed, maintains that Armenia presently needs stability more than it needs this administrative reform. They claim that the president is attempting to use this administrative reform to centralize local government and grasp more power over local activities. Mr. Sadoyan indicated that the majority of local governments are opposed to the president's version of the constitution, but are afraid to express their disagreement.²⁷

Another problem that remains to be addressed by the constitution and/or implementing laws is the fact that no single governmental agency is dedicated to local government. Currently, three agencies at the national level of government have responsibilities relating to local government: 1) the Parliamentary Committee on Local Self Government, 2) the president's apparatus, which plays a supervisory role, and 3) the Department of Regional Regulation, which is part of the government apparatus. While they do not work independently, their efforts are not easily coordinated.

Both drafts of the constitution are inadequate in some respects, will be dependent upon enactment of extensive implementing laws, and probably will not successfully deal with the issues of local self government. However, the opposition draft attempts to provide local government with a basis for local autonomy, while the presidential draft addresses administrative problems while retaining and even strengthening the central control over local governments. The opposition draft spells out the subject matter that is appropriate for local decisionmaking, and even suggests that local governments are "entitled" to act upon issues of local concern. Neither draft addresses the fact that a large, unwieldy number of deputies are elected at the local and regional level who do not have significant power and have difficulty holding the executive committees accountable. Both drafts assume a great deal of central government involvement in local government, but the president's draft spends no time outlining local prerogatives, and instead sets up a system where the president can directly remove any regional decisionmakers and indirectly remove any local decisionmakers who do not satisfy him, without any objective criteria for removal. While the president's draft may suggest a more rational administrative approach with fewer artificial regional subdivisions that should be considered for inclusion in the new constitution, the opposition's draft gives more attention to local concerns and decentralization issues, and is thus more favorable in this respect.

and be adopted. He mentioned that the president is considering passing his version of the constitution by referendum of the people.

²⁷A compromise proposal suggests that a new constitution should centralize those powers that are national in character, and give more independence to local governments to deal with local issues. Mr. Sadoyan suggested that the president was not interested in such a compromise proposal.

Comments and Observations Regarding Local Government Law in Armenia

Armenia's laws currently reflect the Communist legacy of extensive written laws without the rule of law and an effective judiciary system, coupled with an absence of written law on many subjects which are presently of great importance, including democratic processes, local self government and direct citizen participation in government, budgetary and tax systems, and operational relationships between key actors in national, regional and local governments. While many of the governmental structures and systems currently in place on the national, regional and local level could conceivably operate smoothly with the right people operating them, the lack of checks and balances and the lack of legally defined and enforced relationships leaves a great deal of room for abuse of the system and control of regional and local affairs by self-interested individuals or by a central government which has less of a stake in regional and local well-being than the people it is governing. Essentially, as one government official stated, Armenia lacks the culture of democracy among its people and leaders that is critical for democratic and rational decisionmaking. The citizens are used to a system where their input and ideas are not valued or respected on a national or local level. As a result, the citizens are apathetic toward all levels of government, and lack the know how or interest to demand accountability from their government or its leaders.

Additionally, the fall of communism and the ascendancy of some democratic principles (e.g. free elections, freedom of speech, many leaders who are not ex-Communists, etc.) have left the people even more cynical when these reforms have not led to economic success and political honesty and rational decisionmaking. A large percentage of popularly elected deputies in the regional and local governments are simple and uneducated people, swept into office by the wave of democracy. These individuals need jobs and are in desperate straits, like the majority of the population, and as a result, these elected officials are often unwilling to be held accountable, or to hold the regional or local officials whom they elect (chairpersons of the council of deputies and executive committee members) accountable if those individuals offer them perks such as better paying and more prestigious employment positions, more subordinates and personal chauffeurs, and other special favors that these officials have the power to offer, given the lack of accountability. This vicious cycle of citizen apathy toward government providing more opportunities for government officials to take advantage has left most citizens feeling hopeless and even less likely to get involved in the government process at the local level. Moreover, even when government officials do care about doing their jobs well and serving in the public interest, these officials are so busy attempting to solve the many short term problems which stem from external interference, like preparing for a winter without heat, light and water, that they are not free to make policy decisions and guide the long term future of the city, region or nation. In this atmosphere, even if the present system could work under perfect conditions, the present system has no chance of working in Armenia's catastrophic conditions.

This grim assessment does not mean, however, that Armenia cannot benefit tremendously from regional and municipal development programs that focus on legal and structural advice and technical assistance training. Rather, these programs must take into account the reality that citizen participation and ownership in the process are essential to success and improvement of the system of regional and local government. Local involvement in programs such as the United Nations' public information and awareness program being implemented in Yerevan are also important in this process. Equally important are programs that emphasize responsibility and accountability of public officials, demonstrate the importance of checks and balances, educate on the importance of conflict of interest laws, and enforcement of sanctions for violations of public trust. Development of a stronger judicial system based on the rule of law is an essential part of this training. Training on relationships of different levels of government (state vs. regional

vs. local) would be valuable, especially if it emphasized how these different levels can work together, rather than merely viewing local government as subordinate to the central government.

Armenia could also benefit from training that stresses the importance of working with opposition parties and opposing points of view rather than attempting to stifle dissent. Another suggestion for training that comes from the experience of Armenians within the government structure is an emphasis on in-country training, as opposed to training abroad. This suggestion comes from the experience that in Armenia, as in probably most NIS countries, the hardship conditions dictate that an opportunity for training abroad is a huge perk that is often passed out to loyal cronies rather than to deserving trainees who would benefit from or respond to the training.

APPENDIX